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Iowa Recovers \$194,127 in Medicaid Fraud Settlement with Schering Plough

DES MOINES, Iowa - Iowa Department of Inspections and Appeals (DIA) Director Steve Young announced that the State of Iowa has recovered nearly \$200,000 following the settlement of a major federal Medicaid fraud case. As part of the federal settlement, the State of Iowa will recover \$194,127.09 in restitution and penalties from the Schering Plough pharmaceutical company, @Director Young said. Schering's alleged misconduct involves the underpayment of Medicaid Drug Rebates on its blockbuster antihistamine drug, Claritin.

The Federal Medicaid Drug Rebate statute requires that all pharmaceutical manufacturers supplying products to Medicaid recipients provide the Medicaid Program the benefit of the best price available on that product. The best price information is used by the federal government to calculate rebates for the state Medicaid programs, and is to include all discounts, rebates, payments and other incentives. In this case it was alleged that Schering, when negotiating with two Health Maintenance Organizations (HMOs) to keep Claritin on formulary in lieu of a competitor's product, provided the HMOs with certain discounts, concessions and incentives, which were not reported to the federal government as part of the Claritin best price. The result was that the states received millions less in rebates from Schering than would have been paid had best price reporting been done appropriately, Young explained.

Under the settlement agreement, Schering Sale Corporation, a subsidiary of Schering, will plead guilty to federal criminal anti-kickback charges and pay a fine of \$52.5 million. Schering also entered into a civil false claims settlement in federal court in Philadelphia. The company will pay a total of \$282.3 million to resolve its civil liability for underpaying Medicaid drug rebates. A portion of the federal recovery is allocated to the states according to their respective Medicaid Program utilization for Claritin.

As part of the settlement agreement, Schering will be required to report accurate pricing information to the federal and state governments on many of its products. Schering also entered into a Corporate Integrity Agreement with the United States Department of Health and Human Services (DHHS) Inspector General, which will require strict scrutiny of the company's pricing and sales practices for the next five years.

DIA's Medicaid Fraud Control Unit investigates allegations of Medicaid fraud by health care providers and suppliers in Iowa. Personnel in the Unit also investigate allegations of abuse and neglect involving residents in long-term care facilities that receive Title XIX (Medicaid) reimbursements, as well as allegation that residents have been defrauded of personal funds or possessions. As part of the Schering investigation, the Department collected and verified data regarding the use of Claritin by Medicaid recipients.

The states' settlement was reached in conjunction with a federal settlement negotiated by the United States Attorney's Office in Philadelphia, PA. The state settlement team was lead by the directors of the Ohio, Oregon, and Pennsylvania Medicaid Fraud Control Units (MFCU) and a senior Assistant Attorney General from the Illinois MFCU. The monetary recovery for the states from the settlement represents double the actual damages sustained from the underpayment of rebates.

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